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DISCOURSE

OF

Ecclesiastical LAWS,

And SUPREMACY of the KINGS

OF

ENGLAND,

In DISPENSING with the

PENALTIES thereof.

By Mr. *PHILIP NTE.*

L O N D O N,

Printed for *W. Cross*, MDCLXXXVII.

DISCOURSE



AND SUPREMACY OF THE LIVES

ENGLAND

IN DISSENTING CHURCHES

BY THE REV. J. H. STODOLSKY

By Mr. PHILIP W. M.

LONDON:

Printed for W. G. & M. D. 1857

*A Discourse of Ecclesiastical Laws and Supremacy of the
Kings of ENGLAND, in dispensing with the
Penalties thereof.*

CHAP. I.

The CASE and STATE of the QUESTION.

THE Kings Power and Jurisdiction in Ecclesiastical Affairs may fall under a threefold Consideration, as 1. Put forth by himself. 2. By Commission granted to Ecclesiastical Persons, and exercised in those Courts we term *Spiritual*, or *Ecclesiastical*. 3. As such Affairs are managed and ordered by him in *Parliament*, and by the *Authority* thereof.

The form in which these *Ecclesiastical* Lawes are expressed to us, is this; *Be it enacted by the King's most excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons in Parliament assembled, and by the Authority of the same, &c.*

Merely to *advise and consent* implies no more *Authority* in Establishment of *Ecclesiastical* Lawes than what was put forth by the *Convocation* in their *Canons*; but it being added by the *Authority* thus mentioned, may be construed either relating to the *advice and consent* of the *Lords and Commons in Parliament*; which is a *suffrage*, and more than *our advice* or bare *consent*. For it implyeth when *Bills* are formed, read, debated and assented to by both *Houses*, they were then stamped with some kind of *Parliamentary* authority. Or it is to be interpreted as relating to *King, Lords and Commons*; which is likely: for Consultations of *Parliament*, altho concluded by *Vote*, yet become not formally a *Law* until His Majesty hath given his *Royal* assent.

And in this sense *Ecclesiastical* Lawes and Orders, which are enacted and established by *Statutes*, have as formal a *Sanction*, (being not only by the Authority of the *King*; but by *Lords and Commons* assembled in *Parliament*) as other *Lawes* wherein our *Civil* interests are concerned, namely; by a joint and not the single Power of either.

This being granted, some may say, 'tis then needless to dispute those higher interests; and thence also inferred, That as these *Ecclesiastical* Lawes have their *rise*, vigour and strength; so their diminution and abate-

ment from conjunction of both Powers, and are more fixed and stable than those *Canons* and *Orders* in *Ecclesiastical* Matters that have their *sanction* from the King only.

But to this I say briefly, these *Powers* are not so equal but the King hath the *Supremacy*, and is enabled thereby to such *Acts* and *Orderings* about the *Penalties* of our *Laws* as are peculiar to the *Crown* and *Dignity* of a *King*: as in *mitigating*, *exempting*, *dispensing*, *licensing*, *pardoning*, &c. and all this more especially in *Matters Ecclesiastical* as by the following will appear.

This *Power* and *Superiority* exercised by the *Kings* of *England* with respect to the *Penalties* of our *Laws* both *Ecclesiastical* and *Civil* shall be spoken to in these two particulars.

First, That such an *Authority* and *Supremacy* is necessary, and ought to be placed in some hand.

Secondly, That it is a *Dignity* which hath been always in the *Kings* and *Queens* of this *Realen*.

1. For the former. In all *Polities* and *Forms* of *Government*, as there is a rule the which is to be the *measure* to and by which all *mensations* that live under that *Polity* are *ordinarily* to be *Conformed* and *Judged*; so is there always some *provision* made for *mitigating* the *rigour* of the rule in *Cases* which may fall out and cannot be foreseen by the wisest *Legislators*: And in such *cases* to exercise *summum jus* would be *summa injuria*. Therefore there is here not only a *Power* to *Judge* as the *Case* stands in the strict *Letter* of the *Law*; but as there are *Courts* of *Law*; so are there *Chanceries*, *Courts* of *Equity* and *Conscience* wherein the *Law* and *Rule* it self is *dispensed* with, and *varied* from. The *Proceedings* there are not according to the *strict* terms of the *Law*, but *secundum aquum & bonum*, according as the *merits* of the *Case* require.

1. For *Laws* constituted for a whole *Nation* universally to be submitted unto by Persons of what quality soever, and how much soever different in their *Conditions*, must needs in their *strict* execution bear harder upon some men than upon others. *Parliaments* in their *Laws* going by the rule of *ad ea quae frequentius accidunt*, &c. better a mischief than always an inconvenience. It is taken for granted that a general *Law* which hath its good and necessity in respect to the *bulk* and *body* of a *People*, may prove unequal to particular Persons from the *Circumstances* of their *Condition*. In the *Common-wealth* the ease and benefit of each particular person of what degree or condition soever is to be consulted; but where *Laws* are executed in their full *rigour*, and no particular *Mercy* or *Indulgence* in special and unusual *Cases*, it will not be. So *God* himself who knows every man's heart, yet some of his *Laws* which are given in the general to all, would not prove so equal to each at all times without *exemptions* in particular *Cases*. Hence we say *affirmative Precepts bind not AD*

SEMPER. To such *Lawes* is that of *Mark, C. 2.* to be referred in the *Case* of the *Shew-bread*.

And the *Pope* who assumes to himself a possibility not to *Erre*, yet how doth his Republic abound in *Courts* for *Faculties*, *Dispensation*, *Indulgences*?

2. It is also to be Considered, there are no Societies of men but may *erre* in their counsels. *Lawes* made in one *Parliament* come to a review, and often to an alteration, yea to a *repeal* in the next. The *intervals* of those great *Councils* are some time long, and if no way of relief were in the mean time, the *Subject* would without remedy undergo the Penalty of an unequal Law.

These and the like Considerations make it necessary that besides the *Legislative* Power placed in the *Parliament*, there be some hand or other also by which upon all *emergent* occasions, the *rigour* of a *Law* as to its *Penalty* may be abated, by the means whereof not only mens *Liberties* and *Estates* but lives also are sometimes preserved.

2. For the other, This *balance* hath always been *trusted* in the hand of and annexed to the *Sovereign Majesty* of every State.

For this interest doth little vary, but remaineth in a manner the same in all States in what *form* soever they be established. In the *State* of *England* being an *Empire*, and its *Crown* in many *Acts* of *Parliament*, (especially relating to these *Matters* styled *Imperial*) this Power is inseparably annexed thereunto; which needs little proof, it being confirmed by the *OATH* of *SUPREMACY*. Our great *Lawyers* also give in their *suffrage* hereunto, frequently affirming that the *Statutes* relating to the King's *Ecclesiastical* Jurisdiction are not *introductive* of new, but *declarative* of the old *Lawes*.

When an *Act* (say these two learned Judges *Coke* and *Rolls*) *forbiddeth* under a *Penalty*, in case it may be inconvenient unto diverse particular persons in respect to *Circumstances*, the *Law* gives Power to the King to *dispense* therewith.

And in like *Cases*, or upon other Considerations equal, he may *dispense*, *license*, *pardon*, &c. yea altho these *Lawes* have been passed by His Majesty's royal assent formerly, and (what is more) a *Clause* inserted in the *Act* that the King's *Licence* in this or that case shall be void. Yet it will be no *BARR* to such *Prerogatives* as are originally and inseparably inherent in his royal Person; but he may give *Licence* with a *NON OBSTANTE* thereunto.

A learned *Sergeant* in his *NO MOTECVNIA* hath these words, The King by a *Clause* of *NON OBSTANTE* may *dispense* with a *Statute* Law, if he recite the *Statute*, though the *Statute* say such *Dispensation* shall be merely void. And he may *licence* things forbidden as to *Coin* money, which is made by the *Statute* *Capital*, and was before unlawful, for that is but *malum Prohibitum*; but *malum* in se, as to leave a *Nuisance* in the *High way*, &c.

he cannot license to do, but when it is done he may pardon it; but where the Statute saith his Licence shall be void (which the Civilians call *clausula derogativa*) there it must have a Clause of *NON OBSTANTE* (i.e.) *NOTWITHSTANDING ANY STATUTE*, and else it is not good. And (saith the same Author) he may in respect of his Supreme Ecclesiastical Jurisdiction, exempt some from the Jurisdiction of the Ordinary, and dispense with others in things which the Ecclesiastical Law Prohibits upon the same ground that they are not, *mala in se*, but *prohibita*.

I hold clear, saith Judge Hobart, That tho' the Statute saith, that all Dispensations, &c. shall be granted in manner and form following, that yet the King is not thereby restrained, but his Power remaineth full and perfect as before, and he may still grant them as King.

The King may remit the Penalty and Punishment tho' not dispense where what is forbidden by Law is *malum in se*, saith that Sergeant in his fore-mentioned Discourse: much more then where what is forbidden is but *malum Prohibitum*. The Statute indeed of 1 Ed. 2. cap. 7. Enacts that no letter shall proceed from the King to discharge an excommunicated Person, but where the King's Liberty is prejudiced: but as this Statute it self proves the late and former practice, so it takes it not away, since the King's liberty of discharging such Persons used before is preserved by the same Statute.

CHAP. II.

Of the Prerogative and Regal Power in relation to Ecclesiastical Lawes and Matters of Religion.

1. **R**eligion in the moral part thereof, namely, the Precepts and Commandments of God, the institutions and Ordinances of Christ, these are not subject to any humane Wisdom or Power. The Apostles that were of higher authority in these Affairs than any on earth, went no further then as 1 Cor. 11. 23. *What I have received of the Lord that I deliver unto you.* To make Lawes in Spiritual Matters that are such by the Light of Nature that men may be moved to do and act according to this Light in duty and our Civil concerns, we yield unto the Magistrate who is *custos utriusque tabulae*.

2. There are matters of Circumstance: also these and the like are made by our Lawes to depend upon the power and ordering of the Prince. This distinction you have laid down as Law by Judge Hobart. These are his words: *Though it be jure divino that Christian People be provided of Christian offices and duties, as of Teaching, Administration of Sacraments, and the like, and of Pastors for that purpose, and therefore to debar them wholly of it,* were

were expressly against the Law of God: Yet the distinction of Parishes, and the form of furnishing every Parish Church with its proper Curate, Rector or Pastor by the way of Presentation, Institution, &c. as it is used diversely in divers Churches, and the state or title which he hath or is to have in his Church and Benefice, is not a positive Law of God in point of Circumstance. And we know well that the Primitive Church in its greatest Purity, was but voluntary Congregations of Believers submitting themselves to the Apostles, and after to other Pastors, to whom they did minister of their Temporals as God did move them. Government is a beam of Divine Power, and therefore he proceeds saying, if a People refuse all Government, it were against the Law of God, but if a popular State will receive a Monarchy, it stands well with the Law of God. In the Case of Glover and Colt against the Bishop of Coventry and Litchfield, pag. 149.

From all this the Judge seems to confirm his distinction by way of Comparison thus. As in humane affairs Government in the general and essentials of it, that one man be subject to another in an orderly way, is necessary, and *jure divino*, and not in man's liberty and dispose: Yet for the modes and forms of Government and like Circumstances, it is left to the choice and wisdom of Men and the Conduct thereof.

So in Matters of Religion which are not *jure divino*, our Law judgeth the Magistrate hath the ordering thereof in each Nation according to the manners and temper of the People, which is various: And in particular the disposing of Pastors and People for the more convenient and orderly Service and Worship of God to be only *jure humano*, and may be otherwise, and was so in the Primitive Church in her greatest Purity.

Pastors and People were not then as now engaged by this relation one to another in this Parochial bond or tie, but enjoyed a Christian liberty voluntarily to dispose of themselves, under such and such a ministry as they should make choice of to themselves. The Church is said in that state to be in greatest Purity. 1. The Congregational way therefore is not a way in this learned Judge's opinion of disorder, and confusion, as is so frequently suggested. 2. And that it is in the power of Supreme Majesty to dispense with a Parishioner as well as with a Pastor or Rector to be a non-resident and take another Rectory, the division of Parishes being *jure humano*.

What those things and Matters of Religion are in the judgment of our State that come under the manage of humane Wisdom and Power, is well expressed in Queen Elizabeth's Advertisement. These Orders and Rules have been meet and convenient to be used and followed; yet not prescribing these Rules as Laws equivalent with the eternal Word of God, and of necessity to bind the Consciences of our Subjects, in the nature of them considered in themselves; or as they should add any efficacy or more holiness to the virtue of publick Prayers, and to the Sacraments, but as temporal Orders merely Ecclesiastical without

without any vain Superstition, or as Rules in some part of discipline, concerning decency, distinction and order for the time.

And in the Articles of 1562, It is not necessary that Traditions and Ceremonies be in all places one or utterly alike, for at all times they have been diverse and may be changed according to the diversity of Countreys and Mens manners: So that nothing be ordained against God's Word.

It is granted that even these Ecclesiastical Lawes ought to be conformable to the Word of God, and to these general Rules laid down in the Scripture for ordering the Worship and Service of God in the Churches; as let all things be done decently and to edification: Give no offence to Jew or Gentile, and the like, but not to be mens mere inventions.

That distinction which some would make of things against or contrary, and what is according to the Word of God, as they apply the one to matters of Faith, the other to matters of Order, is a distinction without a difference: there is more wit than truth in that interpretation of Christ's words, *He that is not with me is against me*; and in another place, *He that is not against me is with me*, applying one to matters of Faith, the other to matters of Order. There is no such distinction to be made, but Rites, Ceremonies, and matters of Order ought to be according to God's Word as well as matters of Faith. Magistrates are to judge *circa res Ecclesiasticas, de iis si fidei sint dogmata vel ritus & Ceremonia: earumq; veritatem & equitatem juxta verbi divini normam.* Mocket de Pol. Eccl. Anglicana cap. 30. And the Power of the King stands not in forming new Articles of Faith or formes of Religion, and such as were Jeroboam's Calves, but in defending and propagating that Faith and Religion of which God in the Scripture is the undoubted Author, saith Mason of Bishops, cap. 5.

It is evident those holy men our first Reformers made no such distinction; but that all should be done according to God's Word, taying before them these general Rules in Scripture, even in retaining that which hath been so offensive; for of the retaining Ceremonies there is this account given by them, viz. because they appertain to Edification: whereunto all things done in the Church, as the Apostle teacheth, ought to be referred. And our Liturgy saith thus: *There is nothing to be read but the very pure Word of God and the Holy Scriptures, or that which is evidently grounded upon the same.* Preface to the Common-Prayer. God be thanked (saith good King Edw. 6.) we know both by his word what is fit to be reformed and have amended, &c. The Bishop of Rome and his Jurisdiction is taken away and abolished, because it had no ground or establishment in the Lawes of God. Injunct. Ed. 6. So Pilgrimages, Offerings, Beads, Images are done away, being works devised by man's fancy, and beside Scripture.

It is convenient thus distinctly to have insisted upon what we term Religion, or Matters Ecclesiastical, according to that sense in which the Civil Magistrate assumes to himself the ordering hereof, and what influence and

and authority the Scriptures have, or ought to have in these *Rites* of the Church, and matters of *Orders* as well as matters of *Faith*. For hereby it appears whence it is mens Consciences are more concerned in these *Laws* than in other *municipal* *Laws* of the Nation; and their not being free to submit to these *Ecclesiastical* *Laws* when not formed according to *God's* Word, is no evidence of that *Seditious* spirit that kicks against all *Laws*.

2. There is a necessity, and that of much greater importance, *Provision* be made of *Dispensations*, &c. as occasion shall be of *Laws Ecclesiastical* than *Civil*.

In Matters of Religion and the Service of God, (1.) Multitudes there are of loose and prophane Persons, and in respect to such neither are the *Laws* in themselves, nor in the *execution* of them, severe enough. (2.) Against *POPISH* *Recusants* the *Laws* have been severe enough, yet in the *Execution*, great Moderation. (3.) There are those (and blessed be God great numbers) who are not only Orthodox in Faith, but of unblameable life in the greater things of the Law and Gospel. These have fallen under most severe *Laws*, and of late with greatest severity put in execution, and would be utterly ruined, if there be no means of relaxation. It is in the behalf of these I argue this Necessity of Indulgence, and from these and the like Considerations.

1. There is a greater proneness in conscientious men to scruple and to be doubtful in their obedience to the *Ecclesiastical*, than to the *Civil* *Laws* of a Nation: as before.

2. The great difficulty in forming *Laws* wherein mens *Consciences* are immediately concerned so as not to dissatisfie some, if not many.

3. If those *Laws* be not according to *Scripture* in the apprehensions of those that are to obey, whatever they are in themselves, it's our Sin if we obey: it's not so in *Civil* commands.

4. It is not of so ill consequence for us to yield obedience to a *Civil* as to an *Ecclesiastical* Law, if ill constituted by the *State*.

5. From what is found in a manner peculiar in these our *Ecclesiastical* *Laws*, and the administration of them many ways prejudicial to the subject, there is a necessity some such provision be found on our behalf of this kind.

1. The real doubts and scruples about our obedience in these *Ecclesiastical* Matters, cannot but be more and greater than in other *Laws*. A man of the greatest knowledge in these things knoweth but in part, and the most men have but a parcel in this part. It is true the Principles and the greater matters of Religion are in great perspicuity laid down in *Scripture*, which gives knowledge to the Simple; but these matters of Circumstance and external order we have for the most part in the generals only, and hints from *Examples* and *Customs* of the Apostolical Churches, in the interpretation.

terpretation whereof the most learned find difficulties and are divided. Now the want of Knowledge is the ground of *scruple* and doubts in our practice, 1 C. 8. 7. For the working of Conscience is from the ultimate resolution of the *practical* understanding, and hence it is that the same Practice may be not only *scrupled*, but a Sin to one man, that is not to another upon the account of different apprehensions. There may notwithstanding be *integrity* and *sincerity* in both, and therefore they are *tenderly* to be dealt with as the *Apostle* requires, which you read in *Rom.* 14.

2. A great difficulty there is to form *Ecclesiastical* Lawes; they being to be the same (where *uniformity* is much stood upon) for a whole Nation, so as not to leave grounds of dissatisfaction to many mens apprehensions, being various thorough the degrees of Light: in so much as that may be Sin to one man, which is a *liberty* to another of a greater degree of light. A little is next to *nothing*, and what is indifferent is nearest in likeness to moral Good or Evil. Hence so frequent mistakings. And as it is with particular Persons, so may it be with a Society or Company of men: one true *Church* in these things differing from another, and the same *Church* differing from it self upon further discoveries. A *Synod*, a *Parliament* may judge such and such things, that they who are to submit, may sincerely *scruple*, and stick at as Sin. If *Churches* and Men *heavenly enlightened* are thus exposed to vary in their apprehensions, we cannot be confident of any *Council* or *Assembly* made up of the most Wise and Prudent Men.

Parliaments are chosen by the *votes* of the *promiscuous* multitudes in respect (we would hope) to their *sufficiency* in managing our *Civil* and *Temporal* concerns: but as to their Skill and Ability to discern and judge of such matters appertaining to *Order* in the Service and *Worship* of God, all men have not this *Knowledge*: this is little or not at all attended by those that *Elect* them; by reason whereof Matters wherein mens Consciences are concerned are not at all times carried by those who are most *Conscientious* in that Assembly, who are not alwayes the *Major* part; yet notwithstanding are required in their Consciences to assent and consent to such Determinations being made, although possibly near one half in number dissented in the passing of them; and it is unavoidable in all and the best Assemblies that are chosen by the general *suffrage* of a Nation.

Again, These matters of *Ceremony* and external *Order* are sometimes managed in part with respect to a Party different in their apprehensions, and who thereupon form these Lawes with respect to *Prudence* as well as *Conscience*. In our first Reformation it was said *such Superstitions are taken away, as time would serve quietly to do it*, and many things were left remaining in our *Liturgie*, which otherwise would have been removed in compliance with that form of *divine* Service used before by the *Papists*, that they may not be provoked but rather won thereby to our Religion.

Womens Baptizing was continued in our *Liturgy*, (saith the *Bishop of Winchester*) else the *Book* would not have passed the House. [*Conf. at Hampton-Court.*] King *James* was once willing that some Ceremonies giving offence should be removed. But the *Parliament* then sitting thought it not Prudence; and our present *Sovereign* would have done a great matter for the Ease of Tender Consciences, as appears by some of the *Declarations* herein after mentioned; but it stood not with the *Prudence* of this *House*, as they expressed in their Answer, without whose concurrence His Majesty thought not fit then to do it.

3. From mistaken Principles, as that there can be no *Unity* without *Uniformity*, that there can be no *Discipline* in a Church without some Ceremonies of humane Institution; that things in *Worship* indifferent become necessary, being imposed by Authority: That things in matters of Order that are once established, and some time continued in the Church may not with safety be altered. These things I offer not to derogate from *Parliaments* in their manage of such Affairs; but upon this serious account only, To shew that as our *Civil Lawes* have made provision that the Church shall not in their *Lawes* and *Canons* order any thing against the *Prerogative* of the King, or the *Lawes* and *Statutes* of the Realm in general, and that such *Canons* shall not be in force that do. (25 *Hen. 8. 19.*) So likewise *Lawes* and *Statutes* in *Ecclesiastical* Affairs, established by the *Civil Power*, if they be found to derogate from the *Prerogative* of *Christ Jesus*, or the *Lawes* and *Statutes* of his Kingdom ought not to be in force upon mens Consciences.

As Church-men being supposed not to be so well understood in *secular Lawes* but may transgress, To may *secular Persons* likewise in their orderings about Church Affairs; therefore there is a like necessity of a Power to review, Judge and dispense with such *Lawes* as shall be found to disturb the Consciences of peaceable Subjects, as occasion may urge thereunto. *Hen. 8.* by Commission (which was continued by *Edw. 6.*) appointed 32 Persons, 8 of each Profession, to peruse the *Canons* of the *Clergy* then in force, to the end those might be removed that were any ways against the *Crown* and *State*. These Kings might have done the like in respect to those *Canons* and *Ecclesiastical Lawes* enacted in *Parliament*, if they were found to derogate from *Christ's* Commands, or his *Institutes*, or if justly offensive to the peaceably Godly, that *Dispensations* might be granted for the present, till further *Reformation* be obtained.

3. The *Municipal Lawes* of a Nation are from and conformed to the Principles of right Reason and common Justice only, and we have submitted to the Resolutions of those Wise and Prudent *Senators* we our selves have made choice of to enact and establish such *Lawes* for us, and therefore may acquiesce in their Determinations without further enquiry, having given a kind of absolute pre-consent to such *Lawes* as shall be enacted by them: but it is not so in *Ecclesiastical Lawes* intrusted with the same

Persons, for they are to be formed according to God's *Word* which every man is to take as his *immediate Rule*, and not to do or submit to any thing in his Practice about the *Notion of Religion*, but what is conformable thereunto; he is to *LIVE* and *act* by his own Faith. To Lawes Ecclesiastical therefore made in Parliament we give only a *Conditional Consent*, viz. So far as they are agreeable to God's *Word*, and concur with Gospel-rules; nor is it in the liberty of any man's Conscience or reason to yield more, nor is there any more by us intrusted with the Representative, the Parliament. If a man doth scruple the reasonableness or equity of a Law established concerning Civil right, or what is required from such a *Statute*, he may notwithstanding yield Obedience without Sin, and ought so to do, rather than to offend by any appearance of disobedience as Christ himself did, *Mat. h. 17. 26, 27.* But in Matters of Religion, even Circumstances Ceremonies or Matters of Order, or the least thing wherein the Lord hath concerned his Word, if there be a doubt or scruple whether it be lawful and conformable to *Scripture*; tho it be from Ignorance, or weakness, yet I sin if I submit in practice thereof, *Rom. 14. 21. compared with 2, 3.*

The consequence of Transgression in this kind is more than the loss of Estate, Liberties, yea, of Life it self. If Lawes from Superiors concerning Civil right be unjust in themselves, or prove unequal from the Circumstances of this or that man's Case, who cannot be relieved by any indulgence, he may submit without Sin, and without transgressing any Law of God; nay, it is virtue and pleasing to God to shew our patience in such suffering, *1 Per. 2. 13. compared with 18, 19. 1 Cor. 6, 7.* but not so in the Matters of Religion; for we have it from Christ to the contrary, that is, not to submit *Coloss. 2. 20.* and God blames his People by his Prophets, for willingly walking after the Commandments and keeping the Statutes of Omri, *Hosea 5. 12. Micah 6. 16. the Lord is a jealous God.*

4. If there be not a Power to Judge and Dispense intrusted in some hand, the People are in a worse condition on these accounts then in their civil interest, and that upon a threefold account.

1. The Secular Lawes and Statutes made in behalf of the Subject are often upon further Deliberation and Experience of inconvenience altered and repealed, whereby the Subject hath ease. It is ordinarily seen in our Civil concerns, that some ACTS of Parliament that partly for their severity, or upon some other account, passed as doubtful whether fit to remain as standing Lawes, are therefore limited to a certain Time, and after which to expire and cease. The severe Act of 35 Eliz. which in the Process of it reached mens lives when first passed, was to remain a Law but to the end of the next Session of Parliament: which in regard of some doubt (it seems) whether in force or not, is declared by this present Parliament to be so, and that it ought to be put in due execution. And

now at this time there is a *Minister* of the Gospel under the Sentence of that *Act*, and for transgressing that Law had lost his life, had not His Majesty interposed by his *Prerogative*. A wise *Statesman* once advised and expressed himself thus : *I ask why the Civil State should be purged and restored with good and wholesome Lawes made in every 30 or 40 years in Parliament, providing Remedies as fast as time breedeth Mischiefs, and contrariwise the Ecclesiastical State should still continue upon the dreggs of time, and receive no alteration. Now for these many years we have heard of no offers of Bills in Parliament, is it because there is nothing amiss ?* [Sir Fr. Bacon.]

2. In that all Proceedings in Ecclesiastical Courts are ever to the utmost rigour and letter of their *Canons* and Orders. There is no *Chancery* or Court of *Equity* to appeal to for redress, but in some few Cases ; as in causes *Testamentary*, *Marrimony*, *Divorces*, &c. specified 24 H. 8. Matters wherein our Estates are touched ; but in matters of Conformity, and such Cases wherein our Consciences are concerned, we are left destitute.

3. Men are upon this peculiar disadvantage in these spiritual Courts who are impeached for Non-Conformity to their *Canons* and Orders, in that their Adversaries and those that are Parties for the most part are their Judges. This Sir Fr. Bacon in his *Considerations* condemneth as a great *Injustice*. So that it is evident considering the Nature of Ecclesiastical Constitutions, and how managed with us in this Nation ; how necessary it is that some Power be placed somewhere, by which we may be relieved when exposed more than others to such extremity of rigour. For otherwise as Conscientious men are more disposed to doubts and scruples in the way of duty in this kind, so to less Mercy and Indulgence from our Superiors.

CHAP. III.

That our relief is from the Jurisdiction and Power in His Majesty to Dispense and Exempt ; for in his hand this balance is placed, which is that we shall insist upon in the next place.

1. **T**His *Prerogative* and Power to exempt from Ecclesiastical Lawes is in the Sovereign : for the confirming whereof, not to insist upon what was acknowledged by *Eleutherius* touching *Lucius* our first Christian King, that he was *Vicarini Dei in regno suo*, in reference to matters to be reformed ; or what is mentioned concerning the Lawes and Practice of King *Edgar*, and *Edw. the Confessor*, namely of the first *mea sollicitudinis quieti eorum consulere de quorum moribus spectat ad nos examen*, and of the other from whom it's said much of our Lawes is derived, in describing

the King's office, he saith, *Rex ad hoc est constitutus ut regnum terrenum, Populum Dei & Ecclesiam regat, ab injuriis defendat & maleficos ab ea evellat, destruat & penitus disperdat*: and much of the like nature that might be urged from Antiquity; but to come nearer home, I bring the Testimony of the Clergy in Convocation, or the representative Church of England, who make it so great a Duty to acknowledge this as they have expressed their severity thus. *Whosoever shall affirm the King's Majesty hath not the same Authority in Causes Ecclesiastical, as the pious Princes of the Jews and the Christian Emperors obtained, let him be excommunicated ipso facto, and not to be absolved but by the Arch-Bishop of Canterbury.* Canons of the Convocation, 1603.

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6.37. I shall joyn with this Testimony that of another Council (namely that met in the Star-Chamber, 2 Jac.) made up of all the Judges and Persons learned in the Law summoned by King James for resolution in some Ecclesiastical Cases, whereof this of His Majesty's Prerogative was one; their resolution you have in these words. *The King without the Parliament may make Orders and Constitutions for the Government of the Clergy, and punish those that disobey and refuse to submit, and this their resolution was ordered to be registred and Recorded in the several Courts of Justice.*

3. And from time to time the Kings and Queens of England have assumed and exercised this Power.

1. In general, the whole body and systeme of Ecclesiastical Lawes and Canons are published by the Synod of the Clergy from time to time without any particular Parliamentary Sanction: And yet have not these Canons their Authority from the Synod or Clergy met in Convocation. For Canons concluded by the Province of Canterbury only, cannot (as such) oblige the Clergy of the Province of York, who had no Representatives or Clerks sitting in that Synod or Convocation that met Anno 1584. 1597. and 1603. and yet its Canons obliged to subjection the Archbishop and Clergy of York, as well as those of 1640. where were the Representatives of both Provinces. It is therefore the ROYAL authority expressed in the Letters Patents affixed to these Canons that gives them Power, and they are therefore termed *Regia leges Ecclesiasticae*.

2. Instances may be produced of several Injunctions, Advertisements, Declarations, and other Edicts and Requirements from Sovereign Power by His Majesty's Predecessors.

You have the Injunctions of Edw. 6. 1547. and Queen Eliz. 1559. with Articles of Visitation thereunto adjoynd. They license Ministers to Preach, suspend also from Preaching.

Edw. 6. also established a Liturgy or publick form of Prayer to be used throughout the Kingdom.

King James likewise gives faculties, confirms a new body of Lecturers throughout England, Preachers that were neither Vicars, Parsons, nor Curates. These

These Instances altho not exprefs of what these Powers have dispensed with or indulged, yet are pertinent upon this account. What Sovereign Power is thus put forth in *Constitutions, Injunctions, and Directions, &c.* in Ecclesiastical Matters, may in like Proportions be exemplify'd in *Exemptions, Dispensations, &c.* as with *Parliaments* and other *Councils* vested with Authority the Power to repeal *Laws and Statutes* is as large as that Power by which they *Enact and Establish* them. For Example, King James might by his *Prerogative confirm and establish a new order of the Clergy*, which was our last instance; he might by the same Power *dispense with and license such Preachers* which now seem and are reputed so to be. And it follows also if his Power will extend to *indulge such persons*, it will not prove short in respect to *hearers*, which are as it were new in the way of their *Assemblies*, and *indulge* such as are not in the *Ancient order of the Parochial Congregations of England*.

2. The like *Deductions* might be drawn from other of those *Instances*. I shall notwithstanding for further confirmation, add other *instances*, and such wherein you have this Power put forth in *dispensing and exempting* from what hath been *burthensom* to mens Consciences by *Episcopal Impositions*.

1. That of *Edw. 6.* In the 4th year of his reign, Certain Protestants removing themselves and Families out of *Popish Countries* into *England* for the sake of Conscience, and being not free to submit to the *forms of Worship and Discipline* established in this Church, this good King by his *SOLE Authority* granteth them the *Liberity* of such a Church Government and form of worship (whereof we shall say more in its place) as should be most suitable to their own *Perswasion*. This being utterly against the *Provision and Settlement NEWLY* made by *Parliament*, He strengthens his Grant by a *NON OBSTANTE* to the *Statute*, and strictly requires all *Bishops and Mayors* to suffer them to enjoy this *Liberity* of Conscience.

2. Another instance you have of the same good King, in *Hooper* being chosen *Bishop of Gloucester*; and there being certain *Rites and Ceremonies* established by *Act of Parliament* to be Conformed unto in the *Consecration* of *Bishops* offensive to his Conscience, *Edw. 6.* requires *Arch-Bishop Cranmer* to omit these *Ceremonies*, *discharging him of all manner of Dangers, Penalties and Forfeitures* he should be in danger of and run into in any manner of way by *omitting of the same*, and these our *Letters* (saith the King) shall be your *sufficient Warrant and Discharge* therefore.

3. The instance you have also of what was done by *Queen Eliz.* for relieving Tender Consciences; namely, *Her Majesty* being informed that in certain places in this Realm, sundry of her Subjects called to the *Ministry*, being induced by *sinister Perswasions*, are scrupled about the *Form of the Oath*, which by an *Act of the late Parliament* was prescribed to be taken according

cording to the Form expressed in the Act under the Penalty of being disabled to bear any Office in State or Church : Her Majesty was graciously pleased by her Power in Ecclesiastical Affairs to give and declare such a sense and construction of the words of this Oath, (expressed in other words much different) for their satisfaction, with a Gracious Declaration that such Persons fit for the Ministry as could not take the Oath in the Parliaments Form should be accepted to do it in this sense, and doing so they should notwithstanding be accepted of her Majesty as good and obedient Subjects, and be acquitted of all manner of Penalties contained in the said Act, against such as should refuse the same. By which means, many an able man had freedom to exercise his Ministry, which otherwise must be laid aside; which Indulgence of hers altho against an ACT of Parliament, yet was owned as done by lawful Authority, and recognized by the Parliament 5 Eliz. and her Execution assented to and enacted.

4. This renowned Queen, together with King James and King Charles the First, confirmed the Indulgence and Dispensation granted by Edw. 6. to Strangers; yea, although it was a Gravamen to the Bishops, as making an evident breach upon the Lawes of Uniformity: for that 'twas granted not only to the Parents, but to the Children and Childrens Children, which were Natural Subjects to the Realm, Persons of great Estates, and Purchasers of Lands, and interested in the Soil; the number also of these Congregations increasing, and situated in the eminent and chief Towns and Cities in the Kingdom, there to live and Profess as separated and divided Bodies, a Discipline and Worship differing from the Church of England, which was not at first intended as Bishop Laud complains, there being onely that one in London when the first Grant was made; and such things were frequently suggested against them. Yet these Princes were graciously disposed (notwithstanding the Act for Uniformity) from time to time to Confirm the Grant of Edward 6th. by several Orders past, some of them formed as having special respect to such Objections. And it will not be amiss for the Reader's Information here to insert some of them at least.

The Form in which Queen Elizabeth confirmed their Liberties.

Non ignoramus variis Ecclesiis varios & diversos jam ab initio fuisse ritus & ceremonias: non contemnimus vestras, neq; vos ad nostras cogimus.

King James, Oct. 17. About the Dutch at Colchester.

His Majesty granted their Orders, Liberties, &c. in as large and ample manner to all intents and purposes as heretofore they have been used, tolerated and allowed unto them, any Provision or Jurisdiction to the Contrary thereunto in any wise notwithstanding.

An Order of King James under his Signet, Jan. 13. 1616. on their behalf.

These are therefore to Will and Command all our Courts of Justice, and other

other our loving Subjects to permit and suffer the said Strangers and their Children, &c.

The Order of the Council for the Walloons of Norwich, Oct. 10. 1621.

Those of Norwich, tho born in the Kingdom, shall continue to be of the said Congregation and subject to such Discipline as hath been by all the time of 55 years practised by them.

The Order of King Charles the First, Nov. 13. 1631.

We Will and Command our Judges to permit and suffer the said Strangers and their Children quietly to enjoy all and singular, &c. without any Trouble, Arrests or Proceedings by way of information or otherwise.

An Order of Council for the Dutch of Norwich, Jan. 7. 1630.

That all those that now or hereafter shall be Members of the Dutch Congregation, altho born within this Kingdom, shall continue to be of the said Church so long as his Majesty shall be pleased.

These and diverse the like instances might be produced, which sufficiently evince it as granted on all sides, and constantly supposed to be according to the constitution of this Realm, that our Kings and Princes have Power in and from themselves, as an *inherent* inseparable Prerogative not only to enjoyn and give Lawes to their Subjects in Matters Ecclesiastical, (such as are left to the ordering of any Civil Power) but also to dispense and exempt from Lawes of that kind, tho established by them in conjunction with the Authority of Parliament.

Nor do we find that Parliaments at any time have taken into Consideration what was ordered and done by these Kings; and Princes in Ecclesiastical Affairs, as being their *known* Prerogative, no not in the time of King James, who assumed the most in such managements, nor by any Petitions or Addresses to any of those Princes (which is usual in the concerns of Civil Rights) for limiting or enlarging the exercise of their Power in these Matters Ecclesiastical: but rather recognizing and confirming what hath been ordered by them, as in 5 Eliz. and in Car. 2. in the Act of Uniformity, and many other instances, might be tendered.

CHAP. IV.

Of Objections against this Power, and the exerting thereof, with Answer thereunto.

Here are Reasonings possibly tending another way; the Objections obvious I shall now mention; having diverse material Considerations pertinent to a more full and clear stating this Case, which might have been produced in the body of this Discourse, but are reserved rather to this place, partly because we find this vulgar way of *DIALOGUE* lets in

in Knowledge with less difficulty; and what is required by way of a *Question*, engageth him that proposeth, with greater *attention* to observe what is said in the *Answer*.

Quest. If such a Power be in the King, may it not be thence inferred that he hath Power over the Consciences of Men?

Ansiv. 1. There is nothing in this Power or the execution of it, but only taking off *Restraints*, as to the outward Duties which the Law requireth, and the pressing such things upon it as are contrary to its light and dictates. And the Power which *Protects* Conscience in its external actions, and takes off all fear and *Impositions* from it, is so far from being a Power over the Consciences of men, that it is a necessary requisite for acting of its own Power in obedience unto God. Neither, 2. doth it follow, that if the King may *suspend* the Execution of *Ecclesiastical Lawes*, that in the like cases he may make such Lawes: for the *Suspension* of Lawes belongs to the *executive*, but the *making* of them to the *Legislative* Power, which are distinct; and in the making of Lawes with Penalties annexed, the Liberties, Estates and Lives of the Subject are concerned; but in the *suspension* of those Lawes no man is damaged in what is secured to him.

Quest. If such a Prerogative be in the King, what need Ecclesiastical Lawes be transacted and established by Parliament?

Ansiv. 1. That if His Majesty is pleased in these Affairs at any time to take in the *Advice* and *Assent* of his *Lords* and *Commons* in *Parliament*, it doth not alwayes evidence His Majesty's Power as *insufficient* of it self for such *things*. Such a favour may proceed from a *Condescension* upon the account of a more popular *Acceptance*; that our hands may be fastened more firmly in obedience to those Lawes and Commands in the forming whereof they have been assistant. Take it answered in His Majesty's own words, *Declar. of 26. Dec. 1662.* to concur with us in making some such *Act* as may enable us to exercise with a more universal Satisfaction that Power of *DISPENSING* which we conceive to be *INHERENT* in us, or as also it is by the above-named Learned Judge *Hobart* expressed. These Statutes and the like were made (saith he) to put things in ordinary form, and to ease the Sovereign of labour; but not to derogate from his Power.

Ansiv. 2. Powers sufficient in themselves may joyn, and in such conjunction remain entire as Powers *Cumulative*, and not *Privative*, as is evident from what is said in the *Statute of 31^o H. 8. cap. 10.* The King's most Excellent Majesty, who is appertained to his Prerogative Royal to give Honour as
shall

shall seem to his Wisdom, he is nevertheless pleased and contented for an Order to be had, &c. by this High Court of Parliament, that it shall be enacted by the Authority of the same, self-distinct from that capacity wherein he stands in conjunction with his Subjects as their Head; in that respect being in a higher Region above, and in a greater distance from those Interests, upon the account whereof his Subjects are many times divided, and Publick Edicts become formed according to the prevalency of a greater Party, to the prejudice of others which are his Loyal Subjects. Also by Wisdom and Prudence there is a ballance by which the Tranquillity of a Nation is happily preserved, and one Party not over-born by the other, having this Power to Mitigate and Dispense (as hath been discourd) with what in his Wisdom with Advice of his Council shall seem equal.

Quest. 3. But hath not the King's Prerogative been limited in our Lawes? are there not some things which he cannot dispense with, no nor with a non obstante?

Ans. I grant it; and in several Cases, 1. He may by special words in the Statute bind up himself from making any use of his Prerogative. 2. In what is *malum in se* in respect of Impiety or Unrighteousness. 3. When such Dispensations are destructive to the great ends of a Commonwealth, common Justice, the Proprieties of men, &c.

1. To the First, His Majesty or any of his Predecessors, hath not at any time in any Statute or Law that concerns these Ecclesiastical Matters by any such special words bound up himself; but rather the contrary, as in those two Acts wherein more especially our affair lyeth; that of Uniformity, where that Dispensation with that Statute granted to Strangers by sole Prerogative-Authority, is justifi'd. In the Act, 22^o Car. 2. by the Proviso there inserted, the Parliament seems to induce His Majesty's assent in the recognizing his Prerogative so expressly in that Act, as if they spoke thus, *Tho this Act be very severe, yet if it be found prejudicial, or not to attain the end for which we judge such severity to be requisite, It is an Ecclesiastical Affair, and your Majesty may when you please disperse or exempt Persons from it, for we intend not to abridge your Royal Prerogative.*

2. There is nothing transacted in these Affairs by the Civil Magistrate and as depending on his Authority, but such Matters as in the sense of our Law are things materially indifferent, and therefore not *mala in se*: they do not bind the Conscience of the Subject in the nature of them considered in themselves [Queen Eliz. Advertisements 1569. Preface.] The keeping or omitting of a Ceremony in it self is but a small thing, yet the wilful and contemptuous transgression and breaking a Common Order, &c. [of Ceremonies why some are, &c.] So that these Precepts concerning Eccle-

fiastical Matters oblige not in their own *Nature*, as what is either *bonum* or *malum*, but as *Prohibited* or *Commanded*.

3. *Civil Rights* and *Claims* and *Temporal* things only are the *immediate* and *intrinsic* concern and interest of all *Commonwealths*. *Dominium non fundatur in gratiâ*; If the just *Claim* of a *Prince* may not be interrupted upon the account he is of *this* or *that Religion* and *Perfwasion*, nor may a *Subject* be justly *Banished*, *Imprisoned*, *Confiscated*, or ruined upon the meer account of *Religion*, or because his *Conscience* is not cast into the same mould with the *Prince* or present *Etablissement*. It is *Papery* to deny *Allegiance* to *Prince*, or *Protection* to a *Subject*, upon the account of any such difference.

Quest. *Religion and the Worship of God being the great Concern of a Nation, is not then to dispense with the Penalties in Ecclesiastical Lawes, too great a trust to be reposed in any one hand?*

In Answer, I shall endeavour something to unfold, 1. In what sense *Religion* is the *Concern* of a *Nation*. 2. The *Nature* of this *Trust*. 1. How much *Religion*, &c. The moment and weight of a *Matter* in our *Deliberation* hath its proportion either as under an *absolute* or *respective* Consideration; *Wisdom* is better than *Riches* in it self *absolutely*, but not in respect to the support of present life; The knowledge of *God* and *Divine* things, is better than to know the virtue of *Drugs* and *Plants*; but not so in respect to the study of *Physick*. So *Religion* and the *Worship* of *God* is the chiefest and better part in it self considered, but in its respective Considerations as to the faculty of a particular *Person*, to *Community* of men for the advance of *Civil Affairs*, there are other qualifications and inducements of greater Consequence, and more directly and immediately tending to the being or well-being thereof.

That there be no mistake in this great Concernment, I further distinguish; There cometh under the *Notion* of *Religion* the *Holiness* and *Righteousness* that is of the *Moral Law*, Principles whereof are in all mens natures, and attended in their actings by a natural *Conscience*. 2. *Gospel Duties* directed and ordered by a *supernatural light*, no footsteps or Principles whereof are found in us. For the former, *Religion* in that first sense, as the *Knowledge* of *God*, *Conscience* of an *Oath*, *Justice* and *Righteousness* in our dealings, &c. are such things wherein the well-being of *Kingdoms* and *Commonwealth* is much concerned. But *Religion* as it stands in exerting *supernatural Principles*, and in *Duties* termed the *Commands of Christ* (as the other the *Commands of God*, (Jo. 15.) such as *Faith*, *Repentance*, *Sacraments*, *Discipline*, and the like *Gospel-Ordinances*: In the *Duties* under these Heads considered, and as distinct from *Moral Duties*, there is little or nothing directly and immediately contributed by them

them to mens *Civil* interests, further then where these *Supernatural Vertues* are planted in mens Minds, the *Moral* Duties of *Piety* and *Honesty* do more plentifully abound and are in exercise. As those *Morals* do more immediately concern the Commonwealth, so the *Lawes* thereof are principally drawn forth out of them, especially *Second-table* Duties forming and moulding them into municipal *Lawes* under *Penalties* and encouragements greater or less; as in the Wisdom of a State is judged most conducing to the welfare thereof. For these *Gospel-Mysteries* 'tis otherwise, for as they contribute not to us in our *Civil* Government otherwise than as before-mentioned; so is there little contributed by the *Wisdom* or *Authority* of any State, advantageous to the *Gospel*, but *Protection* or being a defence upon the *Glory*.

Bishop *Bilson* states it well; *Princes* (saith he) command that which *Christ* the Sovereign Lord and Head of the Church commands; which is all the Power we give to *Princes*. [Supremacy, pag. 227.] And in the Page before, By *Governors* in Ecclesiastical Matters, we do not mean *Moderators*, *Prescribers*, &c. but *Magistrates* bearing the *Sword* to permit and defend that which *Christ* himself first ordained and appointed; but to return.

If *Adam* had stood, all Common-wealths had been prosperous and flourishing, and yet no *Christ*, no *Faith*, *Repentance*, nor any *Gospel-Worship* known or practised; and since the fall, you have had well-governed Kingdoms and States among *Turks*, *Heathens* that never received *Christ* or *Gospel-Worship*. It is with *States* as it is with particular *Persons* in *Commerce*; another man's Estate, or Trade, or Credit, or any other *Civil* concern with whom I have to do, is not prejudiced or bettered by omission or practice of what is a meer *Gospel-Duty*. If a man I deal with be unjust, ly, steal, &c. my worldly interest is prejudiced hereby; but whether he repent for this, or exercise *Faith* on *Christ* for forgiveness, and humble himself, I am neither gainer nor loser in my *Civil* concern.

Now it is *Gospel-Worship* and *Gospel-Religion* we profess in this Nation. If then the Duties themselves performed are of no greater consequence in respect to *Persons* with whom we converse, or the *Civil* State where we live; the Modes, Forms and Ceremonies of such *Worship* cannot be of such moment or trust in the manage of them. And let me add, much less can there be any such special advantage or detriment to our State-Concernments in this or that particular external form of *Worship* or Government, that one should be retained by us with so much Zeal and Contention, and from an alteration whereof we should be so much deterred; which evidently appears in this: how prosperous and flourishing hath this Nation been in their *Civil* concerns under *Episcopacy*, *Set Liturgies*, *Ceremonies*, &c. and as great Prosperity in other Christian States where these have altogether been disallowed.

Nor is this any dishonour to the *Gospel*, more than to the *Kingdom of Christ*, when it was said *not to be of this World*, or to his Person or Officers that they contribute no more to the settling of Civil Rights and Interests, *Luke* 12. 13. or to *Gospel-Weapons* which being *Spiritual*, and not *Carnal*, have no edge to cut off mens Liberties, Estates or Lives.

2. *The Nature of this Trust.*

The Lawes and Institutes by which these *Ecclesiastical* Matters are to be managed, are appointed and established for substance by the Wisdom and Authority of that *one Law-giver Christ Jesus*. The Application of these Lawes, in respect of Circumstances for the well and comfortable enjoying Gospel Ordinances is all that any Humane Wisdom hath to do in them, the *trust* whereof may be placed in the hand of a Wise and Prudent Prince.

Again there is *Liberty* of an *after-Judgement* to be made by him, that is to practise in whatever is in the concerns of Religion commanded by men; Thence such Lawes require not such simple and peremptory obedience if conformable to those rules required in the *Word*. Obedience thereunto is with respect unto *God* as well as *Man*: if otherwise that then ought to be left to the Subject, which the *Apostles* claimed *Acts* 5. 29. Now altho Matters of *Religion* and the Concernment of it be great things considered in it self, and accordingly is the *trust*, yet what of it falleth under the hand of a Civil Power, is neither in it self nor in its *trust* so great.

Because the *greatness* of this *trust* sticks generally in mens minds, especially when in the disposal thereof it depends upon the will of one man, to remove this or the like stumbling block, we will *suppose* failings in the management of the trust, as great as rationally can be imagined. 1. Suppose his Majesty should refuse either by *himself* or *Parliament* to enjoin any thing of *Ceremony* or *Circumstance* about these *Externals*, in the Worship and Service of God. Or, 2. Suppose he should *dispense* with all *Injunctions*, and leave the *People of God* to a full *Liberty* in the observance of them, and call these high defects and failings in Conduct and Government; yet the *Premises* last mentioned being considered, there can be no great prejudice to the *Commonwealth* or *Civil Affairs* thereby. Distinctly we shall weigh both of them. 1. For the *Former*, If the keeping or omitting of a *Ceremony* in it self considered, is but a small thing, as was mentioned before, and of such a nature, as altho at first of godly intent and purpose devised, yet at length turned to *Vanity* and *Superstition*, and burdening mens Consciences without cause, &c. as we our selves acknowledge [See Preface to the *Common-Prayer Book*] and of the same condition are most of those *Impositions* which have proved burthenfom to the Nation a long time; I say if so, the not imposing of these things cannot be prejudicial to *Church* or *State*. Not to the *Church*. If these directions for Gospel-worship in the external Circumstances of it, were not reduced into *Canons* and *Injunctions*, but

but left where they are to be taken up in practice according to the light of the Age, as are Gospel-Duties of greater consequence; Those *Scriptures* by which States profess themselves to be guided in forming these *Ecclesiastical Lawes* are intrusted also in the hands of the *Gospel-Ministers*, for their conduct and direction in ordering Gospel-Affairs; who have gifts and assistances from it in such a measure and degree as cannot be expected in the ablest *Statesman*, as such. And the *Ecclesiastical Lawes* are never so well ordered by *Civil Powers*, as when they consult with, and take advice and directions from the *Ministers* of the Gospel about them. To advise new Rites and Ceremonies (saith Bishop Bulson) is not the Princes Vocation, but to receive and allow such as the *Scriptures* commend, and as the *Bishops* and *Pastors* of the place shall advise [of *Suprem.* p.226.]

2. If there were no such severe *Injunctions* about the *Forms* and *Modes* of Gospel-Worship. (I speak not of such *Duties* of Religion in which mens *natures* are principled) 1. The Nation would not hereby suffer in respect of its *Civil* concerns; but the *Wealth* and *Trade* would be much more prosperous, the things being small in themselves, and do become great only upon the account of their being enjoyned, and the *greatness* of Penalties annexed, being of great Concernment to the State; that is, to the great prejudice thereof, as hath been apparent in many years sad Experience. What is it of moment to the Common-wealth, for the quickening of Trade, keeping up of *Rents*, &c. or any particular man's concern as *Civil*, that men kneel, or not at the *Sacrament*, *Crossing* or not *Crossing* in *Baptism*?

2. For the other, as dispensing with all Penalties annexed to *Ecclesiastical Lawes*; where these Penalties are removed, yet these *Lawes* remain as *Councils* and *Advertisements*, and being consulted by the learned *Clergy* in their *Synods*, and commended, are useful in the Administration of *Worship*. This is as much as ever was done by the *Apostles*, when Churches were in their greatest Purity, who endeavoured not so much to establish an external Uniformity, as to preserve *Christian Liberty*.

If it be said, they had then no *Christian Magistrates*, We say the Kingdom of *Christ* must come into a Nation before it be *Christian*; and if it be so defective in its first address for want of such Magistrate, and of the means we put so great an esteem upon for the reducing a People, how will the People ever become *Christians*? And on the other side, if the Gospel hath a sufficiency in it self without borrowing, to subdue a *Pagan* Nation to *Christianity*, much easier it is being such to preserve them orderly and regular *Christians*. Paul having instructed and converted, left his People free and to act by the Persuasion of their own hearts, Rom. 14.3. One man esteemeth one day above another, another man esteemeth every day alike, let every man be persuaded in his own mind. That was but a *Council* or *Advertisement* in the Act for Conformity in 18 Eliz. given to the Arch-Bishops, Bishops, and other

other Ordinaries, that they would endeavour to perform their Duties in execution of the Act; it was indeed very solemn coming from the Queens Majesty, The Lords Temporal, and all the Commons in the Present Parliament, and in God's Name, and as they will answer before God, for such Evils and Plagues as may be Punishments for the neglect hereof. There hath been no want of obedience hereunto by the Bishops being fully perswaded in their hearts thereof, as their Duty, of which if they had not been so perswaded, the severest Penalties would or ought to have been in vain. King James orders throughout the Kingdom, that the Afternoons Exercise each Lord's-Day be spent in examining Children in their Catechism instead of Preaching, this is only commended as the most convenient and laudable way in teaching of the Church of England, and that such Preachers be most encouraged, and approved of; and how readily was this immediately practised throughout the Nation, and is continued in many places unto this day? In the Establishment of Uniformity, 2^o Edw. 6. a Liberty was left in respect to Ceremonies to practise or omit them according as men were perswaded in their hearts.

By the Synod held 1640. some Rites and Ceremonies there mentioned were heartily commended by them to the serious Consideration of all good People as an ancient and laudable Custome of the Primitive Church in the purest times, and notwithstanding all this extolling those Rites (which indeed was as much as can be said for any of our Ceremonies) the Canon concludes thus, in the practice or omission of this Rite, we desire that the Rule of Charity prescribed by the Apostle may be observed, which is that they who use the Liberty, despise not them which use it not, and they who use it not, condemn not those that use it. Canon 7. 1640. And this their Council and Commending hath not been in vain, but received and submitted unto throughout, by those who were so perswaded of these Rites as they have commended them. And so would it have been in respect of other the Rites of our Church. And the free submission in practise of a Rite, tho but from a fewer number of Grave and Pious Persons, would have advanced the esteem of such Ceremonies in the Opinions of others, much more than the forced submission of greater multitudes.

2. As a further Answer, let us consider the Nature of the Crime with respect to the Penalties; the Crime as expressed in our Lawes is a wilful and obstinate or contemptuous omission as in 19 Eliz. c. 2^o. in the Act for Uniformity, where these words wilful and obstinate, I would think are not descriptive, and to be understood reduplicative as an aggravation, and as if all omissions must of necessity proceed from wilfulness and obstinacy; but distinctive, and to be understood Specificative, some omissions being from wilfulness and contempt, but there may be omissions that are not so; and being not so full under the Penalties, as killing a man, and wilful Murder, &c.

That

That the words of that *Act 1^o Eliz.* and other *Ecclesiastical* Edicts would so be understood, there are these Reasons: 1. We would not suppose this *Law*, to be grounded on so hurtful a *Principle*, as this, that where a difference of Persuasion in relation to a difficult case of *Conscience* doth arise, that one Party is alwayes wilful and obstinate. There is not a greater uncharitableness, and more opposit to that *Christian* love and Peace we ought to endeavour after.

2. It was not so judged by our Governors in that Age when this *Act of Uniformity* (1^o *Eliz.*) was established, but a more charitable interpretation of mens scrupling obedience, as is evident from the relief given to such by Queen Elizabeth, who by the Advice of her Council put forth a Book of Articles to be enquired of at the Visitation, and Presentations to be made accordingly: and of 56 in Number; there was not among them one about such Rites and Ceremonies then established, that were offensive, of purpose as some judge to abate the rigour of that *Act*, and other *Injunctions*, which shewed they were not all wilful and obstinate that could not conform. Some merciful Bishops after this Example framed their Articles of Enquiry with more Moderation, and diverse Ministers not fully conforming, enjoyed their ministry under them; The more severe Clergy observing the Liberty enjoyed more in some Diocesses than others, made this Provision in the Synod 1640. *Can. 9. that for the better settling Uniformity, there should be but one Book of Visitory Articles*, that the more moderate and indulgent Bishops might not have the forming their own Articles. The moderate Bishops themselves did not judge that all Non-conformity was to be punished as from wilfulness; nor would those many Dispensations and Exemptions before-mentioned be granted by our Governors, if they had judged those who came not up to the Establishment, disobeyed out of obstinacy and contempt; nor suffer some of them as Queen Elizabeth did to Preach before her in her Chappell.

3. That all Ecclesiastical Transgressions, even in Matters that are little in themselves, are from wilfulness and obstinacy (which this *Act* supposeth it so interpreted) is a *Maxime* in Discipline neither Christ nor Christian Churches were ever acquainted with. Christ in his Ecclesiastical Proceedings against Sinners, distinguisheth between the Sin in it self considered, and as a Sin wilfully and obstinately committed, and hath appointed means for the discovery hereof; and if the Sin be of infirmity a different proceed, and a more tender dealing is appointed, *Gal. 6, 7.* and not to apply Censures and cuttings off; but upon obstinacy only. We are willing to believe such is (I am sure ought to be) the Method of our Process in these Matters, and what appertains to the Worship and Service of God, professing so frequently as we have done, that we take the word for our guide in establishing these Ecclesiastical Laws.

4. Our Law-givers judge the purest Churches those of the Primitive times, were *voluntary Congregations* of Believers (as we said before out of Judge Hobart) submitting themselves to *Pastors*, as God should move them, no *Patrons* then imposing upon them; now there is no *voluntary Act* to which we are moved, but such motion is upon the *account* of something that is *real* or *appearing* good. There is no rational man can *voluntarily* joyn and become a Member of a *Society* or *Congregation* in such condition within his participation, which is probable to be more productive of Evil than of Good; It will be so with us if this *Act* be interpreted *Reduplicative*; that is, whosoever omits a Ceremony doth it *obstinately*, and shall suffer as such an one. I joyn *voluntarily* in hopes to be *edified* in knowledge and real *tenderness* of Conscience, and where such attainments are there is a greater aptness to *scruple* obedience to some one thing or another enjoined, which if we are rained and undone first or last (so severe are the *Penalties* in the Process of them) whether Ministers or private Christians, it will not be with a man (as the *Apostle* saith, *If he will depart let him depart*) to lose the Privilege upon the account whereof we joyned, but must abide upon the place and look on while all be destroyed: what rational man upon Election and voluntarily will become one in such a Congregation? and this is the real and justifiable ground of the Separation, upon the account whereof many thousands of sober and peaceable Persons have departed not only from our Communion, but their native Country, for the advantage of that purer and Primitive Order of voluntary and free Congregations.

5. In the *Statute* of (1 *Eliz*) it is not simply refusing or not using the forms there enjoined, but the doing it *wisfully* or *obstinately*, as was said, for that the *keeping* or *omitting* a Ceremony in it self considered is but a *small* thing as mentioned before, but when *Commanded*, &c. I grant Matters very *small* being made the Subject of a Penal Law, or being enjoined for *State-ends*, may thereby become *great*; the *smaller* the matter is in it self, in such a Case, the *greater* is the wilfulness in transgressing, and so may justly demerit a great Punishment. But yet a Matter being small in it self, and as it stands, the Subject of a *Political* or *Civil* Law, the same when it becomes the Matter of an *Ecclesiastical* Law ought not to be formed with respect to State ends, or in *ordine ad temporalia*, tho it be a *small* Matter in it self, and as a thing merely Natural or Moral may notwithstanding be very great upon that account, and greater to the Person who *scruples* the lawfulness of it, than the greatest *Penalty* that can be incurred by refusal. For there is no Circumstance or Ceremony that hath a constant Station and Place in the Worship of God for any spiritual and designed end (as ours are) but in their relation thereunto are great, whatever they are in themselves. These *Laws* therefore being *Ecclesiastical*, wherein God and Mens Consciences are so immediately interested; the

the not conforming to them cannot be supposed a true measure to judge of mens *wisfulness* or *obstinacy* : it would be a great reflection upon the Prudence (or the Charity at least) of our Lawes and Injunctions so to interpret them.

If the greatness of the *Penalty* be laid not upon the Crime materially considered, but in respect of that *evil* frame wherein we transgress, *God* only is the Searcher of Hearts ; and altho by Overtures and Circumstances something may be discovered this way by men, yet it is with great difficulty and uncertainty, especially when we transgress by omission. The reason is, in *Positive* acts done by a man, all the faculties of the Soul are concerned and exert themselves together at the same time ; and in the Circumstances of such acting, there remain such overtures of such a frame of mind, as a more permanent and exact counterpart thereof. *Omissions* there are oftentimes, when the Soul stands as it were, but *half bent* ; the understanding is not clear, the will undetermined. In an *omission* there is nothing of the man left on Record distinctly to be read and considered of by us ; so that we can scarcely so much as guess from what Principles within an *omission* doth proceed, and the uncertainty is far the greater when it is notoriously known such *omissions* may be from a *good* intention as well as *bad*. To be able so far to *dive* into mens hearts, as distinctly to discover intentions is a work more suitable to the Word of *God* (*Heb. 4. 12.*) then the *Lawes* of *Men* ; we would not therefore interpret these *Lawes* in such a sense as to render all *omissions* to be upon Principles of *wisfulness* and *obstinacy*. It would be more charitable, where so little evidence can be produced, rather to judge the contrary of our *Brethren* and fellow *Subjects*.

6. This *Act* of *Uniformity*, not (we hope) in the *intention* of it, but in such an *Interpretation*, hath been the Argument of all our Sufferings. If therefore that be not the true *meaning* of the *Act* intimated in His Majesty's gracious *Declaration*, namely, That upon what Principles soever men submit not unto it (tho from tenderness of Conscience in the greatest Evidence) yet thereupon to be punished with the loss of their *Spiritual Promotions* ; but if it appears from *Obstinacy* and *Sedition*, that such only should suffer so deeply the addition of further Pains and Penalties as in that *Act* inserted, is just and equal : If this yet be not the *meaning* of the *Act*, as it seems by constant *Proceedings* against Transgressors of it (for what man was ever relieved in any *Court Ecclesiastical* or Civil upon such a *Plea*, *He omitted not such Ceremonies wilfully, but of Conscience*;) I say therefore, if that be not the *sense* of the *Act*, yet upon those Considerations but now mentioned, there is evidence sufficient, that this gracious *Dispensation* of His Majesty of such redundant Penalties (and of such a nature are all the Penalties we are exempted from in that *Declaration*) is to be judged of as most necessary, just, prudent and charitable.

His Majesty was perswaded that *many multitudes* (it's his Expression in Declaration of Decem. 26. 1662.) *suffered*, being *enslaved* in their *Consciences*, and not from *wilfulness*; and his charitable Opinion seems to be most rationally grounded upon an *Observation* of his own. *It is evident* (saith His Majesty) *by the sad Experience of 12 years*, there is very little fruit of all those forceable courses.

The will is a more unsteady Principle, and more easily wrought to a change upon representation of *Good or Evil*: But *Conscience* is more fixed and incorrigible; it not being in our own Power to alter the dictates thereof. As to be changed from our Natural State was not in our Power, no more is the change of our Perswasions in Matters of Duty, *Conscience* being engaged, *Phil. 3. 15.* but *God alone* doth it. His Majesty therefore wisely judged it would be less injustice, and better for the Commonwealth, that all such *Penalties* be removed and *suspended*, when the *Executions* of them have been so constantly misapplied, and so much to the prejudice and disquiet of his good Subjects. It is *Righteousness* (and not *Ceremonies*) which *establisheth a Nation*.

Quest. If the *Penalties of Ecclesiastical Lawes* be removed, these *Lawes* themselves become impracticable. And when *Men* are left to *Worship* in what *Forms* they please, will not that *Ancient Establishment* of our *Uniform Worship* and *Government* to be the same throughout this *Kingdom*, be utterly destroyed?

Ans. For that we term *Uniformity* in the *Worship* and *Service* of *God*, we find no other in the *Apostles Churches*, but what arose from inward Principles freely and naturally; these Principles being in the same, as where there is the same *Seed* there will be the same *Blade*, *Stalk*, *Leaf*, *Flower*; and there is an *Uniformity* from external Impressions, as in a *Mould* or *Seal*. These are constrained and forced; the former is from the *Lord*, a work of his *Power*, and there is beauty in it, *Psal. 10.* The latter is from *Princes* and *States*, wrought by the *Power* of their *Lawes* and *Penalties*, and may have much hypocrisy, but little amenableness. The *basest* metal as well as *pure Gold* will conform to the *mould* into which it is cast. Such a *Conformity* is no safe *Character* to distinguish who is fit, and who is not for *Ministry* or *Membership*; but the other is of great use in the *Churches of Christ*.

As the *wicked*, who are a *seed of evil doers*, are uniform in their *Practice*, being acted from the same inward Principles, (*Eph. 4. 17.*) so the *People of God* being *baptised into one Spirit*, (*1 Cor. 12.*) they live in this *Spirit*, and walk in this *Spirit*, (*Gal. 5. 25*) and as in other *Duties* of *Piety* and *Justice*; so in *Church Administrations*, where *People* are in the same *mind* and *Principle*, they will all *speak the same thing*, altho not the same

same words, in Preaching and Praying, and Officiating in the Service and Worship of God, tho there be no external Prescripts or force of Humane Lawes to bring men to an exact conscientious Uniformity in the External of Worship and Ceremonies. Where there are various apprehensions, this is not to be effected by external force, molesting men in their Liberties and Estates, judging or censuring, or indeed by any Humane Power. God himself that can do it, and establish men in such an *Uniformity*, yet for ends suitable to his Wisdom leaves them various in their actings in this kind; *one man observing a day, or the like Ceremonies, another observes it not*; but mostly standing upon Sincerity in those that doing or leaving it undone, *to the Lord*, that is, out of Conscience; and this is the Apostolical Doctrine in *Rom. 14. 5.*

That which we term *Uniformity*, an exact Identity in words, gestures, and vestments, Nature seems to teach us an example of a Sinsels neglect of. Tho there be a Conformity in every *Vine*, and every *Figg-tree*, and the like works of Nature, one to another in their kind; yet for the *modes* and outward *form* and *shape*, you have not two of these that are conformable and growable.

2. Nor can we say, but tho all the *Penalties* (properly such) annexed to Ecclesiastical Lawes are removed; yet there will remain Provision sufficient left to keep and preserve men in conformity, and to reduce such (whose Consciences will permit) as are not so. For as His Majesty on the one hand hath been pleased to assure the Orthodox conformable Clergy that they shall receive and enjoy the *Revenues* belonging to the Church of England (the richest, most plentiful and ample of any Protestant Church in the World) and that no Person (however *dispensed* with in other things) shall be exempt from paying his *Tithes*, and other Duties whatsoever; so on the other hand, that no Person shall be capable of holding any *Benefice, Living, or Ecclesiastical Dignity or Preferment* of any kind in the Kingdom of England, who is not exactly Conformable. Such Encouragements are also *Privative Penalties*, and have brought and kept more to Conformity than all the *Penalties* removed by His Majesty's gracious Declaration.

When was it known that a *Bishop, Dean, or double-beneficed Parson*, left his Promotion and became *Nonconformist*? and that others that have been bred up to literature at great charge, having Gifts and Parts, would be so *peevish* as to refuse them, and being thereupon forced to divert from the way of a more free Education, to some mean Employment to get a Liveliness, or live upon the Charity of others, (It is the condition of hundreds this day in England :) I say, can we imagine any men having such Encouragements in their eye, and the more desireable from sense of their present indigency, would keep off but from integrity of heart?

His Majesty, as a Common Father, hath the same Affections for all his good Subjects; and never more Prudence and Tendernefs manifested by

any Prince than he hath done by this *gracious Declaration*. One Party, such as conform, enjoy their Consciences with special advantages in Temporal things. The other, they also enjoy their Consciences with freedom from those severe Proceedings; and those are satisfied also. And now *let not any mans eye be evil, because His Majesty hath been so good to their Brethren.*

Let me say again, that His Majesty hath in tenderness and Prudence done a great work, and that which hath lain undone to the disturbance of his good Subjects more or less ever since the *Reformation*; That is, in satisfying or laying a sufficient ground for satisfaction to the two great Parties which divided the Kingdom in Matters appertaining to Religion; that is in the *Forms and Ceremonies of Worship*. (In the *Profession of Faith, and Articles of Religion*, according to the Establishment 13^o Eliz. there is an *Union* in the acknowledgment of both Parties.) And this without the least detriment or just prejudice of either Party: those that conform enjoy their Consciences, imploy their Talents, and reap the Encouragements of the established Government, without any loss or detriment to those that conform not; and this Party enjoy their Consciences, freedom from Suffering, and a liberty to follow their Callings, without the least damage to the *Conformist*.

Quest. *Is there any necessity His Majesty should exert a sole Power in Affairs of Religion, when the Peace and Unity of the Nation was herein undertaken by his Parliament, and many things endeavoured that way by them, and purposes, its likely, of a further progress therein?*

Ans^r. For answer, it will be necessary to insert here briefly a *Narrative* of some passages of his Majesty and his Parliament in these Proceedings. His Majesty observing how Affairs stood here in this Kingdom and the *Distractions* that were upon mens Minds about Religion and Forms of Worship, and considering there are but two ways supposed ordinarily to reduce a People again to Peace and Unity in Religion. 1. Either by *Severity* to discourage or extirpate. Or, 2. By *Lenity and Indulgence* to bear with *Dissenters*: His Majesty considering those forms and ways of Worship to which Conformity is now required, have not only been much *scrupled* and contended against by Learned and Sober men from the beginning ever since the first *Reformation*, but of late utterly *disfavoured* by a *Representative* of the Nation, and a *Synod* of Learned Men: And that *different* practices in the Service and Worship of God, had been formerly *Patroniz'd* and encouraged; and such that were no other but what were received and observed in the best reformed Churches abroad, and by the *Dutch and French* Churches here at home; upon these and the like Considerations, His Majesty chose upon great Deliberation the way of *Indulgence*, it being also most suitable to his *Conscience*, and *sweetness* of his nature.

This his Resolution he professed to all the World, and engaged himself by Promise to his People, he would endeavour the effecting thereof; which is more than evident in the many Declarations he made hereof, and repeated again upon all occasions. He was pleased in a *Declaration from Breda*, to assure a Liberty to Tender Consciences; and *that no man shall be disquieted or called in question for differences of Opinion in Matters of Religion, which do not disturb the Peace of the Kingdom.*

And in his Speech, July 17. 1660. He professeth that he owes his being here to God's Blessing upon the Intentions and Resolutions he had and expressed in that Declaration. This Declaration His Majesty afterwards terms a Promise solemnly made. This solemn Declaration or Promise is so much upon his Royal heart, that he tells both Houses, (July 8. 1661.) *That so oft as he comes to them he mentions his Declaration from Breda, that himself as well as they might mind it.* In His Majesty's Declaration of Decemb. 26. 1662. He tells us, *That he remembred the very words of the Promises made at Breda, concerning Liberty of Conscience, and the Confirmations he hath made of them since upon several occasions; and as all these things are fresh in his Memory, so he is still firm in the resolution of performing them to the full; Feb. 10. 1661.* In a Speech to both Houses, *One thing more I hold my self obliged to recommend unto you at this present, which is, that you would seriously think on some course to beget a better Union and Composure in the Minds of my Protestant Subjects, in Matters of Religion; whereby they may be induced to submit quietly to the Government, and most faithfully give their assistance to the support of it.*

His Majesty did not only express his purposes for the Ease of tender Consciences, but from time to time endeavoured it: And first of all, By a Declaration of the 25 Octob. 1660. *To all his Loving Subjects of England and Wales, concerning Ecclesiastical Affairs*, which mentioning that from Breda, *DISPENSETH* with the use of divers Ceremonies formerly enoyned, that were offensive. March 25. following, he gave Commission to certain learned Divines to meet at the Savoy, and take the Service-Book under Consideration to the same purpose. May 11. 1661. he frees from their Imprisonment such as suffered for Conscience.

The King and His Parliament happily joyned in the same Pious End, Peace and Union; yet differed in their apprehensions of the means to procure it, which was our great unhappiness. The Parliament judged the reducing or rooting out differences by severe Penalties, to be the means of Unity in the Church, as they tell His Majesty in answer to his Declaration; pressing the asserting of the Lawes and Religion established according to the Act of Uniformity, as the more probable means to produce a settled Peace and Obedience throughout the Kingdom. The Parliament supposing, (and possibly some of them perswaded thereof from those who never would distinguish between Non-conformity and Sedition) the dissent of Non-conformists from the present Establishment to be rather from a Spirit of

Faction and Disloyalty, than tenderness of Conscience, proceeded accordingly. The *Act of Uniformity* was renewed, and the Service-Book enjoined with no alteration of what was formerly offensive in it, but some Expressions of greater difficulty to be digested by those that were tender; and nothing done yet in what His Majesty had promised in way of relief to tender Consciences.

Hereupon not only multitudes of faithful Preachers of the Gospel in several Shires in this Kingdom were put from their Employment; but also the Minds of men are much disturbed and filled with hard Thoughts and Jealousies upon this account. Inasmuch as His Majesty was enforced to Publish that *Declaration of Dec. 26.* In which he expresseth the surmises of the People occasioned by this Severity thus: *That having made use of such solemn Promises from Breda, and in several Declarations since, of Ease and Liberty to tender Consciences; instead of performing any part of them, we have added straiter Fetters than ever, and new rocks of Scandal to the scrupulous by the Act of Uniformity.* To this surmise and jealousy, His Majesty condescends to make a reply thus: *As concerning the non-performance of our Promise, we remember well the very words of those from Breda, &c. and the Confirmation we have had of them since, upon several occasions in Parliament, and as all these things are still fresh in our memory, so are we still firm in the resolution of Performing them to the full. But it must not be wondered at since that Parliament to which those Promises were made in relation to an Act, never thought fit to offer us any to that purpose.*

The House of Commons took his Declaration into Consideration, and represented to His Majesty divers Objections against it; and laid it aside, so that nothing was effected thereby to His Majesty's purpose, the Parliament being otherwise minded. And certainly it is not only their Liberty but Duty, to proceed in reforming Abuses, by such means as are in their Perswasion most suitable and likely to be effectual; otherwise they would not be faithful in their trust. So now greater Severities against *Non-conformists* are provided in several Acts upon occasion: As the *Act against Private Meetings*, 16 Car. 2. *The expelling Ministers five Miles from Burrough Towns*, 17 Car. 2. Especially that *Act of 22 Car. 2.* intituled, *An Act to prevent and suppress Seditious Conventicles*; and all very high and heavy in the Penalties, expressed both upon Ministers and People; His Majesty notwithstanding condescended to give his Royal Assent to that Bill: It being judg'd this Severity was taken up by them from good intentions, and as the likeliest means of Peace and Union, as also if it proved not to be so, that they might yet be more fully convinced of the insufficiency of such a way, having had hitherto for some years experience how little effectual it hath proved.

Yet this *Bill* containing nothing for Substance but what was proper to his Ecclesiastical Power, being an ordering the *Externals* of the Church, and nothing

nothing of immediate concern in Civil Affairs in the whole Act, and His Majesty having intentions to take the other course, if this of Severity effected not what was aimed at, a *Proviso* is inserted in the Act in these words : *Provided also, that neither this Act, nor any thing contained therein, shall extend to invalidate or avoid His Majesty's Supremacy in Ecclesiastical Affairs ; but that His Majesty, his Heirs and Successors may from time to time, and at all times hereafter exercise and enjoy all Power and Authority in Ecclesiastical Affairs, as fully and amply as himself or any of his Predecessors have or might have done the same ; any thing in that Act, &c. notwithstanding.*

As this Act of 22 Car. 2. was very strict and severe in it self, so the execution of it was with much violence and rigour in most parts of the Nation ; there being Provision made in it that such as even loose, and indigent Persons may intrude themselves in the promoting thereof with encouragements, not only of their lusts satisfied in persecuting those they so much hate, but their Necessities supplied from large rewards, for the same, having Power given to inform against *Justices, Mayors, Constables*, and such who are intrusted with the Execution hereof, who are under great Fines and Penalties for omissions limited in this Act, and the Informer to have a moiety hereof himself; insomuch that by the rigorous execution of it Thousands of His Majesty's good Subjects were utterly ruined : Persons industrious and diligent in their Callings driven from their Habitations, their Houses broken open, their Goods imbezzled, the Materials of their Trade, the Tools they wrought with, and the Beds they lay on seized, and our Trade every where decayed, Rents of Lands falling, Poverty coming on like an armed Man, Persons haled from these Meetings for the Worship of God through the open Streets to Prisons, being of the same Faith with us, and so peaceable and unblameable in their Conversation, as that nothing could be objected against them, but in the *Matters of their God*; nor for any thing upon that account, but their endeavouring to practise as those reformed Churches we our selves own as such, and hold a brotherly Communion with as the true Churches of *Christ*.

The Nation generally being thus distracted and distressed, those in Power going on still to make Lawes to afflict and punish; and others engaged quietly to suffer whatsoever they should be exposed to for their Consciences; Matters being at this pass, there was apparent Necessity that some remedy in the case should be seriously and speedily applied ; His Majesty considering they are all his Subjects, and how much by such Severity the Interest of his Sovereignty is narrowed ; so great a number of his People rendered unworthy of his Countenance and Protection, and upon no other account or crime, but their being of different Perswasion in some *Externals of Religion*; Persons other-
wise

wife for Industry, Faithfulness and Loyalty every way qualified to do His Majesty and their Country as good Service as any others of His Majesty's Subjects whatever.

His Majesty also did call to Mind that Prudent caution which his Royal Father left him in these words, *Take heed (saith he) that outward Circumstances and Formalities in Religion devour not all or the best encouragements of Learning and Industry, but with an equal Eye and impartial Hand distribute Favours and Rewards to all Men as you find them for their real goodness both in Ability and Fidelity worthy and capable of them: This will be sure to gain you the hearts of the best and most too.*

It was likewise impossible for His Majesty to imagine that so many thousand in his observation, who have suffered so grievous things with such humble submission, should daily thus expose themselves and Families to ruine upon no other or better Principles than a Spirit of obstinacy and stubbornness. Great Sufferings, and by great Multitudes, yet no Tumults, no resisting; whereas in the beginning of the Reformation, what Armies in the North and in the West upon this account, by those of another Perswasion, were raised, altho yet they had suffered but little?

His Majesty (as was said) as a Common Father beareth Affection to all his Subjects; but who of them deserves it, and who not, can never be discovered by this indiscriminating Severity; that is, who are Dissenters upon Principles of Conscience, and who of them to pretending, are notwithstanding of a Seditious Spirit: These can never be distinguished one from the other, when Dissenters and such as conform not, be it upon what ground soever, are all of them equally branded with the same mark of disloyalty, and so represented to His Majesty, and all the Nation. There is a necessity that this Pretence of Conscience be removed, and Seditious Persons discovered and left to condign Punishment, and others (these stumbling-blocks being removed) may, by their peaceable Obedience to all other His Majesty's Lawes, justifie and vindicate their Integrity: which can no ways be done while the Righteous are thus condemned with the Wicked, and no relaxing those Lawes which shut up all, both Guilty and Innocent, under the same Condemnation.

His Majesty, who hath had a clear prospect all along of these things, and thence publicly declared his avowed readiness in that Proclamation of 10 July, 1669. and otherwise, to indulge tender Consciences, hath upon these afore-mentioned, and the like weighty Considerations, been necessitated to Publish this his Gracious DECLARATION of March 15. 1672. where he hath fully performed his Promise made at Breda, and so often repeated. Thus His Majesty, as a
Wife

Wife and Prudent Prince, whose *Station* is fixed in an higher Orb (like the *Sun* exhaling and consuming, or serving to refresh, and to shew the dark Fogs and *Mists* here beneath) hath by the *Light* and *Liberty*, shining forth from his gracious *Indulgence*, refreshed multitudes of his good Subjects, and delivered them from the dark misapprehensions of others: Nor is this their great relief in anything prejudicial, either to the Estates or Liberties of men otherwise minded; nor are such men abridged in any of their concerns Spiritual or Temporal hereby. His Majesty hath made sufficient Provision for the satisfying their Consciences, in a careful continuing those Ceremonies and Forms of Worship they have been accustomed to. Let it not be grievous or offensive to them that their Brethren have obtained from His Majesty, in respect to their Consciences, the like favour.

Quest. Since these Ecclesiastical Lawes of Restraint were Enacted by Parliament, the King giving his Royal Assent, had it not been convenient, if His Majesty had so pleased, that the dispensing with these Lawes had been by Parliament?

Ans. 1. The Kings and Princes of this Realm, His Majesty's Predecessors, did Establish many Things and Orders by Parliament relating to Ecclesiastical Matters; but did yet nevertheless often exercise their own Power in dispensing with the Penalties (at least) of such Lawes.

A constant acting with others in the exerting hereof might (tho no Prescription against the King) yet introduce at least into the Minds of Men a kind of Suspicion, especially in the Vulgar, that such Proceedings of the Supreme Majesty by his sole Power to be an assuming an Arbitrary Government.

2. The Parliament did still continue in this their former Opinion and first Judgment; namely, That a way of Severity was the only means to settle Peace and Unity. They had newly passed the Act for Uniformity, without any abatement of what was offensive; by reason whereof arose that general Discontent which before we have mentioned.

His Majesty being sensible hereof, did by that Declaration of Decemb. 26. move a second time, That an Act might be prepared, &c. not doubting their chearful co-operation with him, being a Matter wherein he conceived himself so much engaged both in Point of Honour, and in what he oweth to the Peace of his Kingdoms; which we profess, saith he, we can never think secure, whilst

there shall be a colour left to the malicious and disaffectionate, to inflame the minds of so many Multitudes upon the score of Conscience, with despair of ever obtaining any effect of our Promise for their Ease. The House returns this Answer, We your Majesty's Loyal Subjects, who are now returned to serve in Parliament, from those several Parts and Places of your Kingdom, for which we were chosen, do humbly offer to your Majesty's great Wisdom, That it is in no sort adviseable, that there be any Indulgence to such Persons, who presume to dissent from the Act of Uniformity, and the Religion Established; for these Reasons, &c. whereof this is one, It will in no wise become the graver Wisdom of a Parliament to pass a Law at one Session for Uniformity, and at the next Session (the reason of Uniformity continuing still the same) to Pass another Law to frustrate or weaken the Execution of the former. So that now His Majesty, had no other Remedy; but either, 1. To retreat from that Pious and Seasonable Resolution for Liberty of Conscience expressed in Letters to the Parliament then sitting from Breda, a Resolution so acceptable to them, as the whole House, *Nemine Contradicente*, by Letters returned Thanks to him, and Blessed the Name of the Lord, who put such reconciling thoughts into the heart of the King. And he himself likewise owned an especial Blessing from God upon his Affairs, after he had expressed that intention.

2. Or break that Promise he solemnly made, assuring this Liberty, and had professed to the world upon this occasion in his Speech, May 8. 1661. That he valued himself much upon keeping his Word, and whatsoever he promised to his Subjects, and that no man can be his Friend and wish him well, who would persuade him to consent to the breach of that solemn Promise.

3. Or leave the Nation under greater Distractions and Sufferings about Religion then he found it: And that upon 12 years Experience of other means, which extended rather to increase the Distempers.

These dishonourable things, I say, His Majesty must have suffered and undergone, or make use of that Power GOD and the NATION have intrusted him withal, tho not with Concurrence of Parliament so much and so often desired by him, even so oft as he came to them: as he tells them in his Speech, July 8. 1661. yet nothing at any time was done to his Satisfaction in Liberty of Conscience by the Houses, being obliged in their Judgments to proceed in the other way.

C H A P. V.

Of former Examples for Indulgences.

His Majesty's *Gracious Declaration* contains not a greater Indulgence, altho it be extended to a greater number of Persons, than what was granted by His Majesty's *Predecessors* (which before we have mentioned) to the *French* and *Dutch* Congregations.

1. There was an *uniform* order of Church Government and Divine Service, to which not only His Majesty's *Subjects*, but all the *Inhabitants* in His Majesty's Dominions were to conform, and no man to absent himself. And were enjoined not to hear or be present at any other Forms of Prayers and Administration of Sacraments, then what is in that *Book* prescribed, under *Penalties* of Ecclesiastical Censures, *Fines* to the King, Poor of the Parish, &c.

2. The *Dispensation* and *Exemption* was by the *SOLE* Authority of the *Sovereign*, and stands thus; *A Liberty* to *Separate* and *Absent* themselves from the *Parish Assemblies*, and to gather themselves into distinct particular Churches or Congregations, to choose and ordain their own *Ministers*; also to establish such a Church-Government or Discipline, and Form of Worship and Divine Service as they amongst themselves judged to be most conformable to the Scriptures; Established by His Majesty's Patent, as a Corporation within it self, and independent upon any Superiour Jurisdiction Spiritual but His Majesty; all *Bishops*, *Mayors*, *Sheriffs*, &c. to protect them, and suffer them quietly to enjoy and exercise these Liberties, with a *NON OBSTANTE*.

3. The *Grounds* and *Considerations* upon which such *Liberty* and *Exemptions* were granted, were these.

1. The *Care of Religion* that ought to be in all Christian *Princes*, and to be shewed forth especially in the relief and encouragement of those that are of the same Religion, in their Sufferings for Conscience of their Duty towards God.

2. Persons of the same Religion with us, and Sacraments administered by them according to the Word of God and Practice of the *Apostles*, ought to be tolerated in their way of Worshipping of God, tho they differ from us in *Ceremonies* and *Discipline*.

3. The *Kindness* we found in other *Protestant* Countries, when we were forced to leave our Native Soil for preserving our Consciences.

4. There were also great Advantages in Matters of Trade from their *Skill* and *Industry*, to the great *benefit* of this Nation and *prejudice* of their own. Lord *Herbert*, Hist. H. 8.

The *Premises* considered, we further say,

1. His Majesty's Protestant Subjects to whom the gracious Indulgence is extended, are generally of the same Religion with others of his Subjects, and the present Establishment, in respect to Matters of *Faith* and *Worship*; in external Forms and Ceremonies they are not more differing from the Church of *England*, then those Congregations to whom the same Indulgence hath been granted by His Majesty and his Predecessors, and is still enjoyed.

And when these *Strangers* had removed their Families, and come among us, had not this gracious Indulgence been granted and continued to them, their Consciences would have engaged them to depart hence, and seek Habitations where the like Liberty might be obtained. And this also is our Condition, Many Hundreds of His Majesty's Subjects with their Families have left their Native Country, and disposed themselves into other Parts of the World upon the same account.

2. If it be so grateful a Charity, and deserving so solemn an Acknowledgment, the kind Entertainment our Subjects have found in other Parts, when not suffered to live in their own Land upon the account of Conscience, doubtless it's a greater Charity to be so indulgent to our own, as not by Severity to enforce them for Conscience to become Strangers in other Countries.

And for Matters of Trade, the Advantages have been great by encouraging those Strangers. But the Disadvantages in the same kind far greater, from Severity, by which Native Subjects have been so greatly discouraged, and not only those *hands hang down* that were most industrious in upholding the *Staple* Trade of the Nation, but by reason Artificers removed into other Parts for their Consciences, the mysteries of our chiefest Manufactures have been made common, and others therein equalled, if not exceeded us. A great sense hereof His Majesty hath expressed in his Gracious *Declaration*.

Obj. It is said these be Strangers, Objects of Charity, being driven out of their own Country, understood not our Language, they were educated and accustomed to other Forms of Discipline and Worship, in the exercise whereof their Consciences had of a long time testified to them.

Answ. 1. It's true; the first grant of this Liberty was to such, but in process of time these Churches were increased and spread into divers Parts of the Nation, and this Grant being confirmed by *Queen Elizabeth*, *King James*, and *King Charles* the First. *English* born, and born *Subjects* of this Realm, they had fully the same Liberty granted them as formerly, inasmuch as the Persons now enjoying these Priviledges, are his Majesty's *Native Subjects*.

2. The greatest number of His Majesty's Protestant Subjects that have benefit by this present Indulgence, have (since they had understanding) been trained up in and acquainted with no other Forms of Discipline and Worship then what was found among us at His Majesty's return, the other formerly established having been for many years totally disused. *King James* himself being educated under other Forms when he came into England, scrupled many things in our *Liturgy* and *Rubricks*. Conf. at *Hampton-Court*.

Finally, it is more then a *Century* of years wherein these *Dutch* and *French* Churches have enjoyed this Indulgence, and there hath been much quiet and peace among themselves, following their Callings without Disturbance, neighbourly and friendly converse with those that are of different Perswasion in Matters of Religion, no troublesome *Disputings* or *Reasonings* about the same, no *Judging* or *Despising* others: Experience we have found hereof beyond denial, in *London*, *Norwich*, *Canterbury*, &c. where diversity of Practices in the *Forms* of Religion and Worship are constantly held forth in the view of all men, for so many years. And why should not we expect the like peaceable and inoffensive converse mutually between those that enjoy now the like Liberty from this Gracious Declaration, and others of our Brethren, whose practice is otherwise.

And the Lord who hath put this in the King's heart, put it also in the hearts of our Senatours to be like minded with him. And as His Majesty hath condescended to them in their way for the space of these Twelve years (as he tells them,) so it is to be desired

desired that they, if it may stand with their great Prudence, would concur with him but half so long in the way himself hath chosen for the Peace and Union of his Subjects in Matters of Religious Worship; or at least, until there be the like evident Experiments of the ineffectualness of it.



THE END.

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